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**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JAMES ROBERT THRIFT  
1001 Starbuck Street, Ste. G101  
Fullerton, CA 92833**

**Pharmacy Technician Registration No.  
TCH 74800**

Respondent.

Case No. 3634

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about May 6, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3634 against James Robert Thrift (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 10, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 74800 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

3. On or about May 21, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3634, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
2 Respondent's address of record which, pursuant to Business and Professions Code section 136  
3 and 4100 and California Code of Regulations, title 16, section 1704, is required to be reported and  
4 maintained with the Board, which was and is: 1001 Starbuck Street, Ste. G101, Fullerton, CA  
5 92833.

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
8 124.

9 5. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
12 of the accusation not expressly admitted. Failure to file a notice of defense shall  
13 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
14 may nevertheless grant a hearing.

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
17 3634.

18 7. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the  
20 hearing, the agency may take action based upon the respondent's express admissions  
21 or upon other evidence and affidavits may be used as evidence without any notice to  
22 respondent.

23 8. Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3634,  
28 finds that the charges and allegations in Accusation No. 3634, are separately and severally, found  
to be true and correct by clear and convincing evidence.

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1 9. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$2,100.00 as of September 27, 2010.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent James Robert Thrift has  
6 subjected his Pharmacy Technician Registration No. TCH 74800 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
9 Registration based upon the following violations alleged in the Accusation which are supported  
10 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

11 a. Respondent has subjected his license to disciplinary action under sections 490 and  
12 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime, petty theft, which  
13 is substantially related to the qualifications, functions, and duties of a pharmacy technician.

14 b. Respondent has subjected his license to disciplinary action under section 4301,  
15 subdivision (f) of the Code in that Respondent committed an act of dishonesty, which constitutes  
16 unprofessional conduct.

17 c. Respondent has subjected his license to disciplinary action under sections 490 and  
18 4301, subdivision (l) of the Code, in that Respondent was convicted of crimes, driving under the  
19 influence and hit and run, which are substantially related to the qualifications, functions, and  
20 duties of a pharmacy technician.

21 d. Respondent has subjected his license to disciplinary action under section 4301,  
22 subdivision (h) of the Code in that Respondent used alcoholic beverages to an extent or in a  
23 manner that was potentially dangerous or injurious to himself and to others in that he operated a  
24 motor vehicle while impaired by alcohol. Such unprofessional conduct posed a significant threat  
25 to public safety.

26 e. Respondent has subjected his license to disciplinary action under sections 490 and  
27 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime, petty theft, which  
28 is substantially related to the qualifications, functions, and duties of a pharmacy technician.

1 f. Respondent has subjected his license to disciplinary action under section 4301,  
2 subdivision (f) of the Code in that Respondent committed an act of dishonesty, which constitutes  
3 unprofessional conduct.

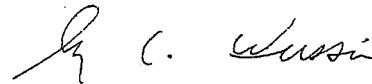
4 **ORDER**

5 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 74800, heretofore  
6 issued to Respondent James Robert Thrift, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
8 written motion requesting that the Decision be vacated and stating the grounds relied on within  
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on January 19, 2011.

12 It is so ORDERED December 20, 2010.

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STANLEY C. WEISSER, BOARD PRESIDENT  
16 FOR THE BOARD OF PHARMACY  
17 DEPARTMENT OF CONSUMER AFFAIRS

18 70355025.DOC  
19 DOJ Matter ID:SD2010800396

20 Attachment:  
21 Exhibit A: Accusation

# Exhibit A

Accusation No. 3634

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DAVID E. HAUSFELD  
Deputy Attorney General  
4 State Bar No. 110639  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2025  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3634

12 **JAMES ROBERT THRIFT**

13 **1001 Starbuck Street, Ste. G101**  
14 **Fullerton, CA 92833**

15 **Pharmacy Technician Registration No.**  
16 **TCH 74800**

17 Respondent.

**A C C U S A T I O N**

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19  
20 Complainant alleges:

21 **PARTIES**

22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about March 10, 2007, the Board of Pharmacy issued Pharmacy Technician  
25 Registration Number TCH 74800 to James Robert Thrift (Respondent). The Pharmacy  
26 Technician Registration was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on December 31, 2010, unless renewed.

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1 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
2 deceit, or corruption, whether the act is committed in the course of relations as a  
3 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

4 (h) The administering to oneself, of any controlled substance, or the use of  
5 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
6 dangerous or injurious to oneself, to a person holding a license under this chapter,  
7 or to any other person or to the public, or to the extent that the use impairs the  
8 ability of the person to conduct with safety to the public the practice authorized by  
9 the license.

10 (i) The conviction of a crime substantially related to the qualifications,  
11 functions, and duties of a licensee under this chapter. . . . [T]he record of  
12 conviction shall be conclusive evidence only of the fact that the conviction  
13 occurred. The board may inquire into the circumstances surrounding the  
14 commission of the crime, in order to fix the degree of discipline or, in the case of a  
15 conviction not involving controlled substances or dangerous drugs, to determine if  
16 the conviction is of an offense substantially related to the qualifications, functions,  
17 and duties of a licensee under this chapter. A plea or verdict of guilty or a  
18 conviction following a plea of nolo contendere is deemed to be a conviction within  
19 the meaning of this provision. The board may take action when the time for  
20 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or  
21 when an order granting probation is made suspending the imposition of sentence,  
22 irrespective of a subsequent order under Section 1203.4 of the Penal Code  
23 allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
24 guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
25 information, or indictment.

26 REGULATORY PROVISIONS

27 9. California Code of Regulations, title 16, section 1770, states:

28 For the purpose of denial, suspension, or revocation of a personal or facility  
license pursuant to Division 1.5 (commencing with Section 475) of the Business  
and Professions Code, a crime or act shall be considered substantially related to  
the qualifications, functions or duties of a licensee or registrant if to a substantial  
degree it evidences present or potential unfitness of a licensee or registrant to  
perform the functions authorized by his license or registration in a manner  
consistent with the public health, safety, or welfare.

10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

(b) When considering the suspension or revocation of a facility or a personal  
license on the ground that the licensee or the registrant has been convicted of a  
crime, the board, in evaluating the rehabilitation of such person and his present  
eligibility for a license will consider the following criteria:



- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

#### COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### FIRST CAUSE FOR DISCIPLINE

(July 24, 2008 Criminal Conviction for Petty Theft on April 26, 2008)

12. Respondent has subjected his license to disciplinary action under sections 490 and 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows.

13. On or about July 24, 2008, in a criminal proceeding entitled *People of the State of California v. James Robert Thrift*, in Orange County Superior Court, case number 08NM06415, Respondent was convicted on his plea of guilty of violating Penal Code section 484, subdivision (a), petty theft, a misdemeanor.

14. As a result of the conviction, on or about July 24, 2008, Respondent was sentenced to three years informal probation, 15 days in county jail and payment of fees and fines.

15. The facts that led to the conviction were that on or about April 26, 2008, Respondent was caught stealing a bottle of Heritage vodka from an Albertson's market in Fullerton, California.

#### SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Dishonesty)

16. Respondent has subjected his license to disciplinary action under section 4301, subdivision (f) of the Code in that on or about July 24, 2008, as described in the First Cause for

1 Discipline, above, Respondent committed an act of dishonesty, which constitutes unprofessional  
2 conduct.

3 THIRD CAUSE FOR DISCIPLINE

4 (July 24, 2008 Criminal Conviction for DUI and Hit and Run on June 7, 2008)

5 17. Respondent has subjected his license to disciplinary action under sections 490 and  
6 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime that is  
7 substantially related to the qualifications, functions, and duties of a pharmacy technician. The  
8 circumstances are as follows.

9 18. On or about July 24, 2008, in a criminal proceeding entitled *People of the State of*  
10 *California v. James Robert Thrift*, in Orange County Superior Court, case number 08NM08758,  
11 Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152,  
12 subdivision (a), driving a vehicle while under the influence of alcohol, a misdemeanor and  
13 Vehicle Code section 20002, subdivision (a), hit and run with property damage, a misdemeanor.  
14 Respondent's plea included an enhancement under Vehicle Code section 23538 (b) (2), in that his  
15 blood alcohol content was in excess of .20 percent.

16 19. As a result of the conviction, on or about July 24, 2008, Respondent was sentenced to  
17 three years informal probation, serve 13 days in county jail in lieu of payment of \$390.00 fine as  
18 to the 23152 (a) violation, serve 20 days in county jail with credit for 12 days of time served as to  
19 the 20002 (a) violation, completion of a nine month Level 2 First Offender Alcohol Program,  
20 complete Mother's Against Drunk Driving (MADD) Victim's Impact Panel and payment of fees  
21 and fines.

22 20. The facts that led to the conviction were that on or about June 7, 2008, Respondent  
23 unlawfully drove a motor vehicle while under the influence of alcohol and with a blood alcohol  
24 content by weight in excess of .20 percent, to wit, .32 percent. Respondent was involved in an  
25 accident with another vehicle. He walked away from that accident before the police arrived.

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1 Discipline, above, Respondent committed an act of dishonesty, which constitutes unprofessional  
2 conduct.

3 PRAYER

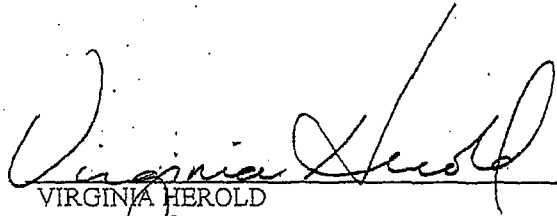
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 74800,  
7 issued to James Robert Thrift.

8 2. Ordering James Robert Thrift to pay the Board of Pharmacy the reasonable costs of  
9 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12  
13  
14 DATED: 5/6/10



15 VIRGINIA HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

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